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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/718,071

11/21/2000

Jay C. Hsu

KCX-359 (15169)

1979

7590

04/12/2005

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EXAMINER

YU, GINA C

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/718,071

Applicant(s)

HSU ET AL.

Examiner

Gina C. Yu

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-17, 19-22, 24-27, 29, 44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed. and 45
- 6) ☒ Claim(s) 1-4, 7-17, 19-22, 24-27, 29, and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of remarks filed on January 6, 2005. Claims 1-4, 7-17, 19-22, 24-27, 29, and 44-45 are pending. Claim rejection made under 35 U.S.C. § 103 (a) over Hammonds et al. (WO 98/03147) in view of Sebillotte-Arnaud (US 5728389), and Potini (US 4944938), as indicated in the previous Office action dated October 6, 2004, is maintained for the reasons of record and as explained below.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 7-17, 19-22, 24-27, 29, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammonds et al. (WO 98/03147) in view of Sebillotte-Arnaud (US 5728389), and Potini (US 4944938).

Rejection is maintained for the reasons of record.

Response to Arguments

Applicant's arguments file January 6, 2005 have been considered but are unpersuasive.

Applicants assert that the Sebillotte-Arnaud and Potini fail to provide motivation for a skilled artisan to use talloweth-60 myristyl glycol as a suitable nonionic surfactant to make a wet wipe as described by Hammonds. Applicants argue that the proposed combination of the references is improper allegedly because neither of Sebillotte-Arnaud and Potini specifically teaches wet wipe products. Applicants points out that Sebillotte-Arnaud and Potini are directed to a "marshmallow-like solid cleansing

composition" an antiperspirant/deodorant gel composition, respectively. Applicants further asserts, "the solid, marshmallow-like skin cleansing composition of Sebillotte-Arnaud, even though it may contain a surfactant like talloweth-60 myristyl glycol, likely would make the wiping properties of Hammonds, et al's wet wipes worse".

Examiner respectfully points out that the rejection is not based on the premises that the entire compositions of the secondary references are physically incorporated into the wet wipe. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In the present case, the issue in this case is whether, in view of the collective teachings of the cited references, a skilled artisan would have been motivated to use the specific type of nonionic surfactant to make the skin cleansing lotion composition for the wet wipe product as taught in Hammonds. The secondary references provide the objective evidences that talloweth-60 myristyl glycol is well known in skin cleansing and personal care art. Sebillotte-Arnaud merely uses a substrate that is different from Hammonds to cleanse the skin, but does not negate the fact that the applicant's surfactant is old and well known. The rejection is viewed proper.

Conclusion

No claims are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

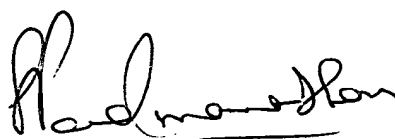
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-272-0635. The examiner can normally be reached on Monday through Friday, from 8:30 AM until 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gina Yu
Patent Examiner



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER